

REMARKS

The application is amended and is believed to have been placed in condition for allowance.

Amendments to the Disclosure

The specification is amended to address a typographical error on pages 24 and 25.

In reviewing the specification it was found that the table of ingredients listed on page 24 for Example 8 was incomplete. The % wt. of the components was found not to add up to ~100% (as they do for the tables of the other Examples in the disclosure), and the cold water for preparing a cold aqueous solution of the hydroxides to be added to the hot mixture in accordance with page 25, line 5 (as opposed to the hot water already present as of page 25, line 3) was not accounted for. Accordingly, the table on page 19 is amended to include a line item for the water of the aqueous solution of hydroxides, and a % wt. of 22.45 based on a total of 100%.

The specification is further amended to amend a typographical error where a heating step erroneously disclosed a percentage where a temperature was clearly intended.

It is respectfully submitted that each of these issues would have been readily understood by the skilled person to be typographical issues in view of the context of the disclosure and the ordinary skill in the art, and that the amendments to correct these issues as provided herein reflect

an understanding based on the remainder of the disclosure that would have been readily understood by the person of skill. For at least these reasons, it is respectfully submitted that the foregoing amendments to the specification are proper and do not introduce new matter.

Claims 1 and 3 are amended to address the formal objections, as further provided below.

Claims 1 and 7 are also amended to remove the term "gel framework" in order to recite in view of clarification and readability.

Claim 1 is further amended to more clearly distinguish the invention over the prior art. Particularly, claim 1 recites the water content by weight of the gel bead as being between 32 and 35 %. This amendment finds support in the specification and the drawing figures originally filed (e.g., Example 5 from pages 19 to 22, and Example 8 from pages 24-26 as amended) and does not introduce new matter.

Claims 30 and 34 are canceled, without prejudice.

Claim 23 is amended to recite water at concentration based on the specification as originally filed (see, e.g., Examples 6 and 7, pages 22-23). New claims 35-36 depend from claim 23 and further claim water content based on ranges of water disclosed by other examples disclosed in the specification (e.g., Examples 1 and 2, pages 14-18, and

Examples 5 and 8, pages 19 to 22 and pages 24-26 as amended).

These amendments do not introduce new matter

Formal Matters - Objections to the Claims

The Official Action objected to claims 3 and 4, stating that these claims fail to further limit the subject matter of the claim from which they depend.

In response, claims 1 and 3 have been amended in a manner believed to overcome this objection.

Withdrawal of the objection to the claims is thereby respectfully solicited.

Claim Rejections - Obviousness-type Double Patenting

The Official Action provisionally rejected claims 1, 3, 4, 7, 8, 13, 23-28, 30 and 34 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 and 17 of co-pending Application No. 12/067817.

In response, the provisional rejection is noted. However, since this rejection has been indicated as provisional, Applicants respectfully submit that no Terminal Disclaimer is required at this time. Should co-pending U.S. Application 12/067,817 go to allowance, for example, the matter of the provisional rejection with respect to the present application should be re-visited and a determination made at that time in consideration of any amendments made to the claims of the present and the co-pending applications.

Claim Rejections - Sections 102 and 103

The Official Action rejected claims 1, 7, 8, 13, 23, 27, 30 and 34 under 35 USC 102(b) as being anticipated by Bolton et al. (US 4,814,179; "BOLTON") as evidenced by Athanikar (US 6,379,651; "ATHANIKAR").

The Official Action rejected claims 3, 4, 24, 25 and 28 under 35 USC 103(a) as being unpatentable over BOLTON and ATHANIKAR.

The Official Action rejected claim 26 under 35 USC 103(a) as being unpatentable over BOLTON and ATHANIKAR, and further in view of Huang et al. (US 6,485,738; "HUANG").

The Official Action rejected claims 1, 3, 4, 7, 8, 13, 23-25, 27, 28, 30 and 34 under 35 USC 103(a) as being unpatentable over Delrieu et al. (US 2002/0086042; "DELRIEU"), as evidenced by ATHANIKAR.

The rejections are respectfully traversed.

It is firstly noted that the independent claims 1 and 23 are amended, and claim 30 is canceled as indicated above. It is respectfully submitted that none of the applied references, whether considered individually or in combination, teaches or suggests a gel bead having a water content as recited in claims 1 and 23.

On the contrary, BOLTON recites a water content of approximately 4.6%. The tablets are intended to reach the stomach and perform a slow release while floating in the

gastric juice. Although the examples such as at column 5 and column 6 disclose around 40 to 55% water during a manufacturing stage, BOLTON's finished product pertinent to the invention claimed is a dried tablet with a water content of 4.6 % (column 6, line 24). Hence, BOLTON does not disclose a gel bead with a water content as recited by claims 1 and 23.

HUANG also fails to teach this feature. HUANG is directed to provide a slow release gel that carries the active ingredients to the small intestine. Water content is disclosed as between 1% and 20% as best understood (see, e.g., table in column 6) depending on the combination selected. The range of water content disclosed by HUANG is far less than the presently claimed range.

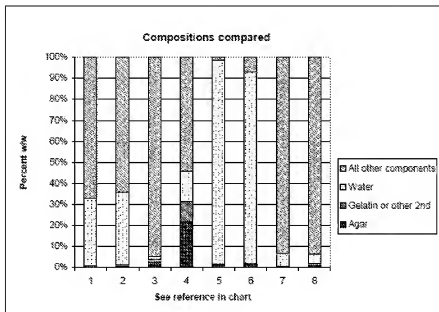
DELRIEU discloses around 97% water far exceeding the presently claimed range (see, e.g., page 9, paragraph [0106] and later examples). Furthermore, DELRIEU adds additional binding chemicals providing for a slow release, and is not pertinent to the present invention.

ATHANIKAR is offered only as teaching that analgesics and tetracycline, as taught by BOLTON, may be used in the treatment of dental conditions. In any case, ATHANIKAR does not teach water content in the claimed range.

A summary of these disclosures is provided below, for the Examiner's convenience.

As seen in the first product:

WO2004/067041		6485736		95462 App		4614179	
Alexander et al		Huang		Dellera		Bolon	
Examp 5	Examp 8	Col 5 table	Clm 7	Examp 1	Examp 6	Claim low	Examp 2 dv
LOW	HIGH	LOW	HIGH	LOW	HIGH	LOW	HIGH
Agar	5.8	1	2.118	30	3.5	2	3.5
Gelatin or other 2nd	0	8	1.412	0	0	0	0
Water	32.1	34.5	1.867	20	97	90.67	6
All other components	67.1	63.55	94.8	75	1.5	7.33	93.7
A1	A2	H1	H2	D1	D2	B1	B2
Total	100	99.04	99.998	138.3	100	100	100
			Agarose				



In the table above, the first item WO2004/067041 is consistent with claim 1 as currently amended, and also new dependent claim 35. As can be seen, none of the references teaches the water content as recited by either of claim 1 or 23, nor dependent claims 34 and 35.

It is therefore respectfully submitted that claims 1 and 23, and the claims depending respectively therefrom, are patentable over the references applied by the Official Action. Withdrawal of the rejections under Sections 102 and 103 is thereby respectfully requested.

Rejoinder of the Withdrawn Claims

It is respectfully submitted that withdrawn claims 10, 11, 18 and 29 each properly depend from an allowable parent claim, requiring all the recitations of the allowable parent claim. It is further respectfully submitted that withdrawn claim 31, directed to a process for making the invention as recited in claim 1, is commensurate in scope with an allowable product claim and requires all the recitations of the allowable product claim.

Accordingly, rejoinder of all the withdrawn claims is respectfully requested.

Conclusion

From the foregoing, it will be apparent that Applicants have fully responded to the March 2, 2011 Official Action and that the claims as presented are patentable. In view of this, Applicants respectfully request reconsideration of the claims, as presented, and their early passage to issue.

In order to expedite the prosecution of this case, it is requested that the Examiner telephone the attorney for Applicants at the number set forth below if the Examiner is of the opinion that further discussion of this case would be helpful.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any

additional fees required under 37 C.F.R. § 1.16 or under 37
C.F.R. § 1.17.

Respectfully submitted,

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